Speaker 1 (00:00):

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Meredith Beeson (00:16):

And policymakers within those states don't have experience working in-house at a corporation might not even understand the variations of corporate structures. We all in the business community know that every business is a little bit different.

Nikki Dobay (00:31):

Hello and welcome to GeTtin SALTy, a state and local tax policy podcast hosted by Greenberg Traurig. My name is Nikki Dobay, shareholder in the Sacramento, California and Portland, Oregon offices. Today I am super pleased to be joined by a dear friend, Meredith Beeson. Meredith is the Senior Director of state affairs at the Global Business Alliance. Meredith, thank you so much for joining me again on the podcast.

Meredith Beeson (01:00):

Always a pleasure to be here, Nikki.

Nikki Dobay (01:02):

Meredith, I've added this new little segment. I don't know if I've asked you this. I don't think I have, but if I have, you could stop me. How did you get into state and local tax? And I know you come at it from a different angle because you come at it from the government relations side, but how did you find SALT?

Meredith Beeson (01:21):

Great question. Well, I think my real first SALT experience probably came at one of my very first government affairs jobs at a large retailer, and I got to cover all sales income and property tax issues on behalf of a large big box retailer. So definitely learned a lot quickly. I worked with multiple tax teams and there I was as a young person thinking tax really only was one thing. What are all these different kinds of taxes? So good foray into taxes.

Nikki Dobay (02:00):

Well, you've landed in a wonderful spot and we are so happy to have you at GBA doing work on behalf of that organization. And today you and I are going to really get into a few specific topics. We are going to talk about worldwide combined reporting and try to demystify this a bit as you hear policymakers talking about this and we hear rumblings of it, and I feel like a lot of people think, oh, it means one thing. But I think we're going to talk today about how maybe it doesn't just mean one thing. There's really a lot of layers to this onion to unpack. And then before we go, we'll just chat about some of GBA's other priorities that you've been focused on this year and maybe what you'll be doing ahead of the 2024 legislative session. So getting into worldwide combined reporting, when you hear this, what does it mean to you and does it mean one thing or are there a lot of layers to this onion?

Meredith Beeson (03:05):

Yeah, and I think I'll start with talking about mandatory worldwide combined reporting-

Nikki Dobay (03:10):

Perfect, perfect.

Meredith Beeson (03:10):

Because there are some states that use it as an option. And we're talking about corporate income taxes, generally speaking when we speak of worldwide combined reporting, and for those that aren't tax experts, which I know most of your audience already knows what combined reporting is, but about half of the states have some form of what's called combined reporting. Every one of those combined reporting structures is very unique in the types of entities that would be required to be included, the kinds of income that would be required to be included in a group. And so when we say worldwide combined reporting, states will oftentimes look to require global entities that may or may not be affiliated with a company's activities in the United States. So when I say mandatory worldwide combined reporting, there've been a number of states that have looked to pivot away from the usual variations of combined reporting to go beyond what's called a waters edge designation or going beyond the United States. So I think that's a good place to start, Nikki. I don't know if you have any thoughts or comments.

Nikki Dobay (04:24):

No, I think that's a great place to start because as you said, I think that's where maybe there's some confusion for policymakers because the folks that eat and breathe state and local tax, these are things that we say and we say them knowing what they mean. But then I think policymakers maybe hear that and think, "Well, this is simple. This just must be this one thing." So just give us your thoughts on this topic and when it comes up, how does GBA really take this on?

Meredith Beeson (05:08):

Yeah, you're exactly right. And at the Global Business Alliance, we advocate what we like to say on behalf of inbound companies. So companies that are headquartered abroad, our members are usually very globally connected, having a lot of entities across the globe. So our work with educating policymakers starts at a really fundamental place with often sometimes just explaining about corporate income taxes. So many states and policymakers within those states don't have experience working in house of a corporation, might not even understand the variation of corporate structures. We all in the business community know that every business is a little bit different, how it's structured with their parent company, with affiliates, with effectively connected income.

(06:00):

And so we really have to take a step back when we're talking with policymakers to talk about what is the difference between combined reporting or single filing. And then when we get into helping explain the challenges of when you take that next step into a worldwide combining practice, and that has been gaining traction in a few states this year. And we'll talk a little bit more about Minnesota, which proposed mandatory worldwide combined reporting earlier this year. I've also been doing some work recently in New Hampshire. And we've also seen states like Pennsylvania put forth proposals that really just dissolved that water's edge boundary idea. So it's back-dooring into a worldwide approach.

Nikki Dobay (06:46):

And I think it's really important to understand, and you said this, all taxpayer structures are just a little bit different. And so while it may sound like having something mandated will make taxpayers act in a certain way or discourage certain behaviors that perhaps policymakers have heard are not good or bad, it's really hard to mandate one way of doing this when taxpayers are so, so different. And so I like to say that providing elections, this is not a way to provide loopholes or create loopholes or do anything like that, but creating flexibilities and there can be guardrails on those elections, is really key to just make sure that at a base level, taxpayers can comply with these laws.

(07:47):

So I don't think that there are groups out there that would advocate for having a free for all elective process where taxpayers can do whatever they want on a year by year basis. So we understand that states also have to have stability, but taxpayers, I really think can't be shoehorned into one proposal and be expected to be able to manage the compliance and burdensome aspects related to that. So that's what I always like to try to explain more.

Meredith Beeson (08:22):

Yeah, Nikki, that's a great point, and that's part of what we help bring to state legislatures and talk about the compliance burden, the complexity, especially when you get into global combination. Currencies are different. Language barriers exist. Oftentimes companies don't want to or can't share information or don't understand where that final data regarding making some of these estimations or calculations is going to go. And I do think that resonates with some audiences and really, especially with departments of revenue or treasury departments because that complexity also exists when you try to audit and enforce. So that business mindset is definitely right, but oftentimes I think there could be a challenge for lawmakers even to understand, well, why is this hard for a large corporation? Can't they just hire more tax people or don't they have a large tax team? So we really need to also underscore that there's burden and potential litigation risk and audit challenges on the state side as well.

(09:34):

And I'll just sprinkle in a little bit here because one of the things that I think is critical when you're talking with policymakers, especially in the legislative space, is that this creates a lot of revenue volatility. Any form of combined reporting has winners and losers, and that just changes and creates that unpredictable revenue source. And when you're a policymaker sentenced in charge of putting a state's budget together, for example, you often want to go after revenue sources that are stable or predictable and that you can quantify and make sure that you are funding the priorities that you want in the state.

(10:16):

And so I think that's a mindset from a government affairs aspect that when we're talking with policymakers, it's that revenue volatility. And at the Global Business Alliance, we don't take a position on combined reporting. Some of our members like it. Some of our members would not choose to do a combined reporting. But that's the point is there's a variation of approaches and preferences here. So I think where we will get involved is when there's that broadening of scope, going beyond what is either connected to a state's activity or anything in the United States and starts to get into that global reach because then we get into challenges about retaliation from foreign governments against US companies. You get into the risks of double taxation and just putting some challenges with our key trading allies across the globe. So I hope that makes sense.

Nikki Dobay (11:21):

Perfect. And this is one of these areas where I think a policymaker could hear an advocate coming in and saying, "Well, let's create some elections. We aren't necessarily opposed to this, but we don't want it to be mandated, so let's create a system where taxpayers can think about this and consider it and elect into it. And again, we can put some guardrails on that for a period of time or whatnot." But I think that has to be understood that having this be elective, creates more stability for the state because if you don't mandate it and you allow a taxpayer to elect into a regime, they also have given up their constitutional rights to challenge that in what the state's trying to do.

(12:09):

So I think that's a point that again, businesses aren't trying to create loopholes with these elections, and you can do them in a smart, thoughtful way that provides stability for the states as well, but it also provides that stability that they're not going to get sued. If this is something that's mandated in nature, there really is the risk to the state that a taxpayer is going to take that state on and say, "No, this violates my constitutional rights."

Meredith Beeson (12:41):

I think you're exactly right, Nikki. And when we talk about what the proponents are saying, they're using these notions of closing down corporate tax loopholes, making corporations pay their fair share. And I think you're exactly right. Every state that has combined reporting honors this water's edge designation, and there's reasons why they do that. They don't want to violate those principles of tax treaties. We all know that states are sovereign entities, but it's the principles behind agreements between countries, different countries in the United States, and that's where every single state that has combined reporting has opted for a true water's edge option or allows for a worldwide option. And that optionality is critical. I think you're absolutely right because it protects against revenue uncertainty, but also unconstitutional challenges.

Nikki Dobay (13:45):

So Meredith, let's get into the proposals that we've seen this year. So we're spinning our wheel, our state wheel. Where would you like to start? Minnesota, New Hampshire. You mentioned Pennsylvania.

Meredith Beeson (14:01):

Yeah. Let's start with my home state, Minnesota. Back in spring, right as the budget was coming together, we had seen a proposal that was heard in committee earlier in the year from the house on mandatory unitary worldwide combined reporting. It resurfaced right before, almost a month to go at the end of session. And I think one of the reasons that it came up and one of the drivers was that it was estimated to bring in about a billion dollars over the next four years. So budgets are set usually in two year, but with some mention of the following two years or the tails of a biennium. And so that dollar amount was a big selling point for this to be included into final negotiations, and that was because the state was looking at funding things and ensuring funding for the next two to four years. So that's where it comes back to one of our core arguments and the things that I think helped move the needle with policymakers was that this is unpredictable revenue and in fact, it could decrease the revenue you're collecting.

(15:20):

And of course, there's folks out there saying, "Well, this is going to bring in a billion dollars, including the state's fiscal estimating agency." And so we did a lot of work educating policy makers, and I think that's what resonated the most. It wasn't arguments about it being overly complex or burdensome. I do think hearing about the history in the 1980s about different countries retaliatory measures, so if these worldwide combined reporting proposals are going to be passed, then we're going to penalize US companies in X, Y, and Z countries. And so I do think that caught the attention of some people, but as you know, many states want to be leaders, and if they're out there and being what they think is forward-leaning, that could be a good thing.

(16:11):

So again, revenue uncertainty I think was some of the strongest selling points, and then learning more about the challenges that this could create globally, not just companies here in the United States but US companies abroad. So Minnesota eventually ended up pulling that provision out of their final omnibus tax proposal. So we're very thankful to see that. I know they ended up pivoting to some other taxes, which I know are very challenging for corporations. But again, happy to see that the final package and budget did not include that mandatory unitary worldwide combined reporting. And we worked very closely with the in-state business community trying to do our best to coordinate with folks at the legislature there.

Nikki Dobay (17:00):

Did you have any insight into that fiscal number or that revenue number? Because it seems like when these come out and they have such a large revenue raiser number attached to them, it makes us scratch our heads 'cause we understand that you're bringing in more income maybe, but you're bringing in losses. And then when you switch to this worldwide basis, that also increases the gross receipts that are going to come into a denominator. So it still blows my mind that people can stand up with a straight face and say that this will always raise revenue 'cause I just think there's been, to me, sufficient information and studies. I mean, I think Virginia did a study a few years ago that really just shows this is inconclusive. You just really can't know whether or not this is going to increase or decrease revenue. And quite frankly, it's probably going to do both. In some years it'll go up and in other years it'll go down.

Meredith Beeson (18:10):

Yeah, you're right. So both Virginia and Maryland just studied regular combined reporting and they decided not to pursue those policies in part because of the revenue uncertainty. There were other things outlined in those studies, but back to the quantification of these, and I think even departments who are tasked with this identify that it is challenging to do. Part of their job is to make best estimations about how policy changes would affect the bottom line as the state's putting together their budget. I do know one of the challenges, and oftentimes what some departments will look at are what the proponents are saying, and we know that some of them have used data that was before the Tax Cut Jobs Act really went into effect. And so there was big assumptions made there, and that's challenging numbers because there was significant changes to the global tax structures after TCJA.

(19:16):

But there's also that, you pointed it out, there's global losses that I think are harder to figure out, even though some company profits might be more visible on certain public data, but those global losses are real, and I think that's often not considered in these mandatory worldwide combining situations. But I do know in the case of Minnesota, the department did know that they had to make some assumptions and make the best guess that they could. It is hard, it's challenging to make estimations on this because nobody knows. And even the proponents or even us, if anyone's telling you a number, I wouldn't trust anybody's.

Nikki Dobay (20:06):

Right. And yeah, I think seeing Minnesota poll this mandatory provision out a good thing, as you mentioned, they went with option two, which was taxing about 50% of guilty. And unfortunately there the real footfall was specifically the provision that they have that says guilty would be treated like a dividend, and then they don't provide factor representation for dividends. And so at the end of the day, I just want to put this on the record, if you're going to pull income in, you got to give us factor representation. But it's good that this piece of that didn't move forward. And now New Hampshire and New Hampshire, this has been popping up in New Hampshire for many years and they're going to do this or they've started to do a study. So catch us up on New Hampshire and what's going on up there.

Meredith Beeson (21:03):

Yeah, so you're right, Nikki. The last few years a mandatory worldwide combined reporting type proposal has been explored and vetted at the hearing level. Last year we saw that legislation turn into a study commissioning an interim review, and New Hampshire is actually currently a combined reporting state, but they want to take it to that mandatory worldwide combination level. So we're thankful that policymakers in New Hampshire decided to really take a closer look at this proposal. And the study commission is made up of some legislative members. There's also some of economic development representatives. There's a couple of key business association or business spots as well on the study commission, and they're going to be talking and conquered next week actually. And so I think it'll be a good time to underscore some of our key points. I'll be headed up there, excited just to talk about and share some of our concerns.

(22:18):

I don't think that the state will take any action on this proposal this year. So there's a study commission, but there is also another bill that's been floating out there. But we really do need to wait and see, and I think it's appropriate as the study commission has indicated that we're not going to take any action on this proposal until we further study and vet this issue. So the final report in New Hampshire is due November 1st. I think we might actually see it a few weeks ahead of that before it gets published and finalized.

(22:53):

So I know that there's going to be proponents and opponents of mandatory unitary worldwide combined reporting. So I do really think it'll be a fair analysis of the issue and looking forward to just sharing what GBA's perspective is on that revenue uncertainty piece, on the potential for double taxation, on these retaliatory measures that other countries implemented back in the eighties. And then of course, underscoring the complexity and the potential litigation and audit risks here. So I think those are going to be our key points up in Concord, but really looking forward to the opportunity.

Nikki Dobay (23:36):

And just so folks know, New Hampshire isn't currently in session, so the study commission is meeting just to discuss this, but it's not as if any action would be taken on any specific proposal at this time. So definitely more to come on that. Any other states you want to talk about in this space before we just chat about some of GBA's other priorities?

Meredith Beeson (24:07):

No, but I'll just finish with mentioning, as we've talked with state policy makers across a couple of these states that I've mentioned about worldwide combined reporting, it's often come up, "Well, isn't the federal government doing this already or don't they already impose worldwide combined reporting, so why should it be so hard for us to do at the state level?" And obviously the federal government has not done worldwide combined reporting. I do think this conflates some of what has been happening really since 2021 with OECD in about 140 countries trying to get on the same page about global minimum taxes at 15%. So I just wanted to mention that because part of our job too is explaining what is happening at the international and federal level.

(25:01):

We know that states oftentimes will make note of that, but they still want to do their own adjustments in their own ways, which is definitely within the bounds of the states. That is their prerogative. But I think it helps show that sometimes these things can be very easily conflated. Well, isn't there a worldwide combined reporting at the international level? Well, no, that's an opportunity to talk about what the status of a global minimum tax is and how challenging that is.

Nikki Dobay (25:34):

Well, and then to your point, it's the OECD and many of the countries are moving forward with things in pillar two and that global minimum tax and what is that regime going to look like and how much different is it going to look than some of the state structures? And then we've just created a whole additional set of complexities. So yeah, I've heard that call. I won't really say it's a call to action, but a call to pay attention from some of the states at some of the FTA regionals, just that the states need to be aware of what's going on because there's a lot of changes going on in the international space, then it could trickle down into the federal space and then what happens at the state level and what are the impacts there. So yeah, I think all of those conversations need to be happening hand in hand, which makes me think this is only going to get a lot more complex.

Meredith Beeson (26:39):

Which I think, going back to your question, I think talking about some of the IRC conformity challenges-

Nikki Dobay (26:46):

Yes.

Meredith Beeson (26:48):

That we've really felt at the state level in the last few years post TCJA and you asked about GBA priorities, one of our more significant wins this year was proactively getting New Hampshire to decouple from IRC, section 163(j). There's already a handful of states and we're hoping to get more on board, but IRC, section 163(j), for those who aren't familiar, limits the interest expense deductions that you can take at a federal level. So what we're really trying to ask states to do is allow for businesses to be able to deduct those interest expenses. And this is a really important issue, albeit very complex and even I think in some ways more challenging to talk with policymakers about because IRC conformity and the dates of conformity, how far retroactivity, this is really complex and every state does conformity difference.

(27:54):

Some automatically conform, some proactively have to adopt these. So our work in New Hampshire decoupled from IRC, section 163(j), and we're really thankful that the legislature and governor there were leaders in passing this because this does help investment. When you think about a company that's taking out a significant amount of loans, especially during the pandemic period or coming out of the pandemic period where you were keeping your doors open, making sure your operations and people were getting paid. But even now we're looking at investment and expansion and people want to build their facilities or operations out more. And so again, this isn't about deducting all of the amount of a loan from a taxable corporate income line, but this is just the interest expense. And one of the things that we've found that has been very valuable is breaking that down into how it's similar to a mortgage interest expense deduction on the individual side.

(29:02):

It's not apples to apples, but when people hear that, they say, "Oh, well I know because I take that deduction off my interest from my mortgage." And so breaking that into what people do know and making sure they understand that this isn't just corporations wanting to reduce their tax liability, it is about helping support them when they're making these investments, taking out loans and building and employing folks here. So I think it's really exciting because New Hampshire passed this decoupling proposal. We definitely want to see some other states follow suit. I'm hoping, fingers crossed, for Massachusetts. They've debated this policy. I think they know that there's some good merits here and it might even come up in economic development conversations versus a purely tax specific policy space. So I'm really excited about that.

Nikki Dobay (29:59):

Right. Well, and this is such a, I don't want to say hard one, but I think it oftentimes we're saying you should conform because that reduces complexities. But in this situation, decoupling often reduces the complexity at the state level. And then to the other piece of this that really is different at the state level versus the federal level is when 163(j) was amended with the TCJA changes, the overall corporate rate was dropped significantly. I forget the percentages now, but it was a very large drop. And that was a revenue raiser that was to offset some of these changes that were decreasing revenues to make this all come together, but we didn't see those corresponding rate decreases at the state level.

(30:56):

And yeah, there's been a few post pandemic, but those have been extremely minor rate decreases. So they in no way, shape or form create that offsetting. They don't offset like it did at the federal level. And for the states in large part, this has been a real windfall, but it's threading all those needles to get the states to understand. Yeah, normally we tell you to conform because that makes it easier. But here, this is a really important one where you really need to understand all the underlying policies and why the decoupling at the state level is just very important.

Meredith Beeson (31:39):

Exactly. And there are efforts at the federal level, obviously to address 163(j). There was also the recent changes, now over a year ago related to EBIT and EBITDA shifts with treasury. So all of those have implications, and you're exactly right, this was a big windfall or an automatic tax increase for companies at the state level. And so states saw that revenue without having to lift a finger. So it's been a lot of education. I will also share one of the complexities here. So in a state like Michigan that is a combined reporting state, they issued guidance a few years ago that individual entities within a combined group would have to calculate interest expenses and interest expense deduction limitations by single entity. So that amount couldn't be shared across a combined group. So again, very challenging when you get into the mechanics of not just 163(j), but maybe it's intersection with a combined reporting type proposal.

Nikki Dobay (32:56):

Oh, so much fun to stuff to talk about. Well, Meredith, any other final thoughts before we get to the most important part of the podcast? The surprise non-tax question?

Meredith Beeson (33:09):

No, I just thank you for the time. I've really enjoyed my journey as a non-tax attorney in government affairs. It really has been insightful to get to know these tax terms, but also being a translator in some ways, to folks who aren't on tax committees, who don't know a lot about taxes. And I find it just really exciting to have that opportunity to talk with elected officials and staffers and just really be that educational source. So bring on the surprise question.

Nikki Dobay (33:50):

All right. All right. Surprise non-tax question. This one, I saw it and I thought, I think this is perfect for Meredith. If you could have an animal sidekick, now the question says, what would it be, but I like to say, who would it be 'cause somehow it just seems like animals are who's not what. And so as I thought about this question, I was thinking about my dog, Rosie, because she's a pretty great sidekick currently, and we do a lot of things together. But then I was like, "Okay, well if I couldn't pick Rosie, who would my animal sidekick be?" And I think it would be a mini donkey. They're just so cute and they seemed like they would be really helpful with so many things.

(34:33):

And I don't know if you remember that show Rob and Big, but he had a mini donkey and it just seemed like a really fun animal to have as a sidekick. So I'd probably go with mini donkey if it weren't Rosie and maybe Rosie and the mini donkey and then she could ride the mini donkey. So that would be super fun to go to conferences with those two and stuff. So who would be your animal sidekick?

Meredith Beeson (34:59):

Well, obviously my current dog, Dougie Fresh is my current sidekick, ride or die. But I think it would be a tie between a carrier pigeon, quite useful, I know that they're extinct now, but thinking big and maybe like a pot belly pig just because they're fat and hairy.

Nikki Dobay (35:30):

Well, I think it's like I really wish maybe next conference season we all got animal sidekicks and we just started bringing them. I just think it would really liven things up and make it a lot more fun. I mean, not that we don't have fun at all the various tax conferences and events we go to, but just something different. So maybe that's what I'll propose at the next one, bring your favorite animal sidekick. Well, Meredith-

Meredith Beeson (35:58):

Depending on the animals it could get dicey, but I love it.

Nikki Dobay (36:04):

Well, Meredith, thank you so much again for joining me today. I'm sure we are going to have conversations in the future. And thank you to the listeners for tuning in and listening to Meredith and I discuss all things worldwide combined reporting and GBA priorities. Really do appreciate you tuning in. Information for Meredith and I's contact information will be in the show notes and I will see you again soon on the next GeTtin SALTy.

Meredith Beeson (36:34):

I'll always get SALTy with you.